

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DIANE CASTELLUZZO,

Plaintiff,

-against-

**JOINT MOTION TO
STAY PROCEEDINGS**

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.,

08-CV-02000-TCP-ARL

Defendant.
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JOINT MOTION TO STAY PROCEEDINGS

Plaintiff, Diane Castelluzzo, and Defendant, Consolidated Edison Company of New York, Inc., respectfully submit this joint Motion to Stay Proceedings regarding Plaintiff Diane Castelluzzo's Complaint, including Defendant's obligation to answer or otherwise respond, for the following stated reasons:

1. Diane Castelluzzo, widow of former Consolidated Edison ("ConEd") employee Anthony Castelluzzo, filed suit against ConEd on April 30, 2008 in New York State Court. Pursuant to 28 U.S.C. § 1441, Defendant ConEd removed the case to this Court on May 16, 2008.
2. Currently, Defendant must answer or otherwise respond to Plaintiff's Complaint on November 20, 2008. No other dates have been set in the action.
3. Plaintiff's only claim against Defendant is for additional pension benefits from the Consolidated Edison Retirement Plan (the "Plan"), an ERISA plan.
4. Defendant contends that Plaintiff is required to exhaust the administrative appeals provided in the Plan before bringing suit to recover benefits.

5. Plaintiff does not concede that she has not fully exhausted any administrative remedies available to her; however, the parties have agreed to proceed through the Plan's review process.

6. In September, 2008, Plaintiff was admitted to North Shore University Hospital, where neuro-surgical procedures were performed. Pursuant to the letter of David Chalif, M.D. annexed hereto, Plaintiff's condition is critical and she remains on the Neuro-Surgical Intensive Care Unit. At this point, Plaintiff is unable to communicate with counsel or participate in this action.

7. As a result, the parties jointly request that this Court stay this action *sine die* pending Plaintiff's continued medical treatment.

8. Granting this Joint Motion to Stay will conserve judicial resources.

WHEREFORE, for the foregoing reasons, movants respectfully request that the parties' Joint Motion to Stay Proceedings be granted.

Dated: November 19, 2008

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For Plaintiff

Motion Granted 09/11/09

JS TSJ